

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE APRIL 19, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1157

Introduced by Senator DeSaulnier

February 18, 2010

An act to add Section 17615 to the Education Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1157, as amended, DeSaulnier. Education: Healthy Schools Act of 2010.

(1) Existing law generally regulates pesticide use and requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management by school districts.

This bill, the Healthy Schools Act of 2010, would prohibit all public schools from using the most highly toxic pesticides, as listed, on school property. This bill would provide that its provisions would not apply to antimicrobial pesticides, products deployed in the form of a self-contained bait or trap, or as a crack and crevice treatment, agricultural uses, or activities undertaken by participants in agricultural vocational education, as specified.

The bill would authorize the ~~school principal~~ *coordinator of the integrated pest management program, or a school designee, as specified*, to use the most highly toxic pesticides, ~~as defined under certain circumstances, and for a specified period of time of the requirements of the Healthy Schools Act of 2000 are met~~. Because the bill would

impose new duties on school districts, it would impose a state-mandated local program.

This bill would require the Department of Pesticide Regulation, beginning January 1, 2011, and annually thereafter, to set an adequate fee on manufacturers or importers of the most highly toxic pesticides, as defined. The bill would require department to set the fee in an amount that is sufficient and limited to reimburse the department for the cost of administering, and school districts for the costs of implementing, this act.

This bill would require the department to adopt regulations to establish the amount of the fee, as specified.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature hereby finds and declares
- 2 all of the following:
- 3 (1) Pesticides have been linked to numerous acute and chronic
- 4 illnesses, including cancer and asthma.
- 5 (2) Because children's bodies and brains are still developing,
- 6 exposure to pesticides can have detrimental and irreversible effects.
- 7 ~~(3) A recent study reveals that female teachers have a~~
- 8 ~~significantly higher cancer rate compared to other women of the~~
- 9 ~~same age and race, including breast cancer, lymphoma, and~~
- 10 ~~leukemia, which previous studies have shown are linked to~~
- 11 ~~pesticides.~~
- 12 ~~(4)~~
- 13 (3) Recognizing the impact of pesticides on the school
- 14 community, the Department of Pesticide Regulation has developed
- 15 an Internet Web site, written training materials, and conducted
- 16 regional training sessions to assist schools that have chosen to

1 adopt least-toxic integrated pest management techniques and to
2 eliminate use of the most dangerous pesticides.

3 ~~(5)~~

4 (4) However, many California public schools continue to use
5 highly toxic pesticides.

6 ~~(6)~~

7 (5) It is necessary to take precautionary measures to protect the
8 health and safety of California schoolchildren and teachers, and
9 better ensure a safe learning and working environment.

10 (b) This act shall be known, and may be cited, as the Healthy
11 Schools Act of 2010.

12 SEC. 2. Section 17615 is added to the Education Code, to read:

13 17615. (a) No public school may use the most highly toxic
14 pesticides on school property unless the pest problem to be
15 addressed cannot be effectively managed with a lower risk
16 pesticide.

17 (b) For purposes of this section, “most highly toxic pesticides”
18 means:

19 (1) Pesticide products that are neurotoxic organophosphorus
20 compounds, containing N-methyl-carbamate or cholinesterase
21 inhibitors, as designated by the Materials Data Sheet of the
22 Department of Pesticide Regulation, for the particular chemical.

23 (2) Pesticide products containing active ingredients rated by the
24 United States Environmental Protection Agency as A or B
25 carcinogens or substances listed as, known or probable human
26 carcinogens as designated by the International Agency for Research
27 for Cancer, the United States Environmental Agency, the United
28 States National Toxicology Program, or pursuant to the Safe
29 Drinking Water and Toxics Enforcement Act of 1986, and are
30 likely to be human carcinogens, or suggestive of being human
31 carcinogens, as described in the “List of Chemicals Evaluated for
32 Carcinogenic Potential,” or known to the state to cause cancer as
33 listed pursuant to the California Safe Drinking Water Act (Chapter
34 4 (commencing with Section 116270) of Part 12 of Division 104
35 of the Health and Safety Code).

36 (3) Pesticide products containing active ingredients that cause
37 birth defects, reproductive harm, or developmental harm as
38 identified by the United States Environmental Protection Agency
39 or listed pursuant to the California Safe Drinking Water Act
40 (Chapter 4 (commencing with Section 116270) of Part 12 of

Division 104 of the Health and Safety Code) or as designated pursuant to the Safe Drinking Water and Toxics Enforcement Act of 1986.

(4) Pesticide products with high acute toxicity as defined by the United States Environmental Protection Agency in Toxicity Categories I and II, as defined in Part 156.62 of Title 40 of the Code of Federal Regulations, or designated by the World Health Organization or the United States National Toxicology Program.

~~(e) Any school principal may suspend the prohibitions specified in this section if he or she finds that there is a pest control emergency and all of the following conditions and definitions apply:~~

~~(1) The school principal deems that the immediate use of a banned pesticide is necessary to protect the health and safety of pupils, staff, or other persons, or school property.~~

~~(2) The pesticides used under this subdivision are the lowest risk available to address the problem.~~

~~(3) A suspension under this subdivision shall not last longer than seven days and shall be limited to a specific application site.~~

~~(4) Students, staff, or other persons not directly involved in use of the pesticides may not be present at the site during use of the pesticides, and the site shall be posted as required by the Healthy Schools Act of 2000 (Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code).~~

~~(5) The school principal shall notify the school district superintendent within 48 hours of pesticide application under this provision and include the following information, which shall be kept in a manner easily accessible to the public:~~

~~(A) The reasons for finding that a pest control emergency exists.~~

~~(B) The subsequent action taken by school personnel or outside contractors to control the pest control emergency, including the pesticides used, their active ingredients, the amount, their purpose, and which of the banned categories defined in subdivision (b).~~

~~(6) The district superintendent shall:~~

~~(A) Put notice of the exemption on the agenda of the school district's board of education for its review at its next scheduled meeting. No decision by the board is mandated by this bill.~~

~~(B) Provide to the relevant district board of education an annual summary of all exemptions used on school district property, which the board shall make easily accessible to the public.~~

~~(C) Include a list of the materials used under this emergency suspension provision, under the heading “Emergency Use of Banned Pesticides,” in the school’s first annual notification of intended pesticide use, as required under the Healthy Schools Act of 2000 (Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code) following the emergency use.~~

(c) In the case of an emergency condition as defined in subdivision (c) of Section 17609, the coordinator of the integrated pest management program, if the school district has established an integrated pest management program, or the school district designee, as defined in subdivision (d) of Section 17609, may permit the use of the most highly toxic pesticide if the provisions of the Healthy Schools Act of 2000 (Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code) are met.

(d) This section does not apply to any of the following:

(1) Sanitizers and disinfectants.

(2) Pesticide products deployed in the form of a self-contained bait or trap.

(3) Gels or pastes deployed as crack and crevice treatment. “Crack and crevice treatment” means the application of small quantities of a pesticide, consistent with labeling instructions, in a building into openings such as those commonly found at expansion joints, between levels of construction, and between equipment and floors.

(4) Activities undertaken at a school by participants in the state program of agricultural vocational education, pursuant to Article 7 (commencing with Section 52450) of Chapter 9 of Part 28 of Division 4 of Title 2, if the activities are necessary to meet the curriculum requirements prescribed in Section 52454. Nothing in this subdivision relieves schools participating in the state program of agricultural vocational education of any duties pursuant to this section for activities that are not directly related to the curriculum requirements of Section 52454.

(5) Agricultural uses.

(e) This section does not abrogate the authority of county health officers, the Department of Food and Agriculture, mosquito and vector control districts, the State Department of Public Health, or

1 other state agencies that are responsible for pest management
2 decisions that may affect public schools in California.

3 (f) This section does not preclude a school district from adopting
4 stricter pesticide use policies or from enforcing stricter policies
5 that have already been adopted.

6 (g) (1) A fund is hereby established in the State Treasury to be
7 known as the Healthy Schools Act of 2010 Fund. Moneys deposited
8 in this fund may be expended by the Director of Pesticides
9 Regulation upon appropriation by statute, for the purposes of
10 implementing this section.

11 (2) The Department of Pesticide Regulation shall, beginning
12 January 1, 2011, and annually thereafter, set the amount of a fee
13 on manufacturers or importers of the most highly toxic pesticides,
14 as defined by this section, that the department determines to be
15 sufficient and limited to reimburse the department for the cost of
16 administering the Healthy Schools Act of 2010, and reimburse
17 local agencies and school districts for costs of implementing this
18 section.

19 (3) *The department shall develop regulations to establish the*
20 *amount of the fee adequate to support this section. The regulations*
21 *adopted pursuant to this section, or any amendment thereto, shall*
22 *be adopted by the department in accordance with Chapter 3.5*
23 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
24 *2 of the Government Code. However, the adoption, amendment,*
25 *readoption, or repeal of these regulations shall be considered by*
26 *the Office of Administrative Law as an emergency, and necessary*
27 *for the immediate preservation of the public peace, health, safety,*
28 *and general welfare. Notwithstanding any other provision of law,*
29 *the regulations shall remain in effect until amended by the*
30 *department. The department shall make available to the public,*
31 *upon the adoption of an emergency regulation establishing a new*
32 *fee, the information upon which the department has calculated,*
33 *based, or determined the new fee.*

34 SEC. 3. If the Commission on State Mandates determines that
35 this act contains costs mandated by the state, reimbursement to
36 local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

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